

Prob 12B  
(7/93)

**UNITED STATES DISTRICT COURT**

**for the**

**District of Nebraska**

FILED  
U.S. DISTRICT COURT  
DISTRICT OF NEBRASKA

2006 SEP 15 PM 12:18

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**Request for Modifying the Conditions or Term of Supervision  
with Consent of the Offender**

(Probation Form 49, Waiver of Hearing is Attached)

**Name of Offender:** James Herbeck **Docket Number:** 4:99CR3014

**Sentencing Judge:** Judge Richard Kopf

**Date of Original Sentence:** July 10, 2000

**Original Offense:** Possession of Methamphetamine with Intent to Distribute

**Original Sentence:** 142 months of incarceration and 5 years supervised release

**Type of Supervision:** Supervised Release

**Date Supervision Commences:** May 27, 2005

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**PETITIONING THE COURT**

☐ To extend the term of supervision for \_\_\_\_\_, for a total term of \_\_\_\_\_

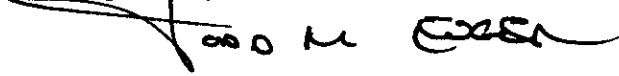
☒ To modify the conditions of supervision as follows:

Pursuant to 18 U.S.C. 3583(d), the defendant shall submit to a drug test within 15 days of release on supervised release and at least two periodic drug tests thereafter to determine whether the defendant is using a controlled substance. Further, the defendant shall submit to such testing as requested by any probation officer to detect the presence of any controlled substances in the defendant's body fluids and to determine whether the defendant has used any of those substances. Based on the defendant's ability to pay, the defendant shall pay for the collection of urine samples to be tested for the presence of any controlled substances in an amount determined by the probation officer.

**CAUSE**

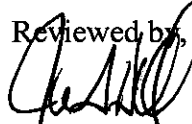
At the time of sentencing, the Court ordered Mr. Herbeck to abstain from alcohol. Additionally, the Court ordered the defendant to attend, and successfully complete any diagnostic evaluation, treatment or counseling program, or approved support groups for alcohol and/or controlled Substances. The defendant indicated in the Presentence Investigation Report that he had previously consumed marijuana and methamphetamine on a daily basis. The sentencing recommendation included the drug testing provision. Therefore, to be consistent with the Court's order the defendant should be drug tested while on supervised release.

Respectfully submitted,



Todd M. Enger  
U.S. Probation Officer

Reviewed by,




John A. Hill  
Supervising U.S. Probation Officer

**THE COURT ORDERS**

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- ☐ No Action
- ☐ The Extension of Supervision as noted above
- ☒ The Modification of Conditions as noted above
- ☐ Other



Richard G. Kopf  
U.S. District Judge

9/15/06  
Date

Prob 49  
(Rev. 12/00)

**United States District Court**

**District of Nebraska**

**Waiver of Hearing to Modify Conditions  
of Supervision**

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Supervision. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following additional conditions:

Pursuant to 18 U.S.C. 3583(d), the defendant shall submit to a drug test within 15 days of release on supervised release and at least two periodic drug tests thereafter to determine whether the defendant is using a controlled substance. Further, the defendant shall submit to such testing as requested by any probation officer to detect the presence of alcohol or controlled substances in the defendant's body fluids and to determine whether the defendant has used any of those substances. Based on the defendant's ability to pay, the defendant shall pay for the collection of urine samples to be tested for the presence of alcohol and/or controlled substances in an amount determined by the probation officer.

Witness: Todd M. Enger  
Todd M. Enger  
U.S. Probation Officer

Signed: James Herbeck  
James Herbeck  
Offender

Date: 09/07/06